

**REMARKS**

Claims 1-14 are pending.

Claims 1 and 4 are independent claims.

**Drawings**

The indication that the drawings filed on April 21, 2003 were accepted is noted.

**Amendment to Specification and Claims**

The specification and claim 1 have been amended, only for editorial purposes.

**Reply to Rejections**

**First Rejection:**

Claims 1, 4, 5-7, 11-14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Yasutake (U.S. Patent 5,729,249) in view of Gilligan et al. (U.S. Patent 5,313,229). The Gilligan et al. reference is a new reference, first cited in the last Office Action. This rejection is traversed.

Recognizing that Yasutake fails to teach a position detection sensor, the Examiner relies on Gilligan et al. for this teaching. In relying on Gilligan et al., the Examiner refers to the following portions of Gilligan et al.:

- (1) Column 1, lines 6-10, which states as follows:

The present invention relates to computer input devices in which a transducer converts transnational motion of a housing into a position signal for controlling movement of a cursor associated wit4h a visual display system.

- (2) Column 11, lines 64 – to column 12, line 2 which states as follows:

In particular, for the scrolling control application disclosed herein, only two patterns are needed corresponding to the horizontal and vertical cursor movements (i.e., the x and y selected scrolling axis). A further enhancement can add a third pattern to allow the scrolling in a “z” axis in 3D data spaces (e.g., 3D spreadsheet program).

- (3) Column 12, lines 24-30 which states as follows:

For a three pattern code (i.e., x-y-z scrolling), a simple approach is to define a more restrictive criteria to detect the x and y axis in order to differentiate these cases from a third default case (i.e., the z axis). This approach consists in detecting a linear motion (x or y) as a strictly “one way” well behaved orthogonal cursor motion (i.e., not oblique).

The portions relied on by the Examiner fail to disclose, either expressly or inherently, the structure asserted to be in Gilligan et al. This structure is not found in the text, nor in the drawings of Gilligan et al.

With regard to horizontal vertical movements of the cursor, the mouse of Gilligan et al. definitely is identical to other computer mouse's known in the art. The text locations of Gilligan et al. quoted above, relates to a scrolling function in the Z-direction. The Examiner interprets this function with the position detection sensor arrangement according to the invention. This is strongly traversed.

The purpose of the position detection sensor arrangement of the input device according to the invention (e.g., element 46 in Figure 1) is, depending on the orientation of the housing within the space, the orientation of the object shown on the display device is changed. That means, for example, if in the input device according to the invention, no actuating element is operated but the housing is rotated about a vertical axis, the object shown on the display device is rotated accordingly.

This is a significant difference over Gilligan et al. Namely, when rotating the mouse of Gilligan et al. around a vertical axis without simultaneously moving the ball (no operation of the actuating element), nothing will happen with the cursor controlled by the mouse of Gilligan et al.

The position detection sensor, e.g., element 46, is set forth in both independent claims 1 and 4, with the specific function of this structure. As explained above, the reference to Gilligan et al., does not show or suggest this feature.

Accordingly, a rejection under 35 U.S.C. 103, using both of the references, does not support a prima facie case of obviousness, because, at least the structure that is claimed is not shown or suggested by the references.

Also, the results of this structure, in the context claimed, provides more user-friendly handling. See, for example, page 2, first paragraph, under the heading "SUMMARY OF THE INVENTION". In determining obviousness, results must be considered, which apparently has not been done under the rejection under 35 U.S.C. 103. See, *The Gillette Co. v. S.C. Johnson and Son, Inc.*, 16 USPQ 2<sup>nd</sup>, 1923, 1928 (Fed. Cir. 1990), wherein the Court stated as follows:

An analysis of obviousness of a claim combination must include consideration of the results achieved by the combination, as we explained in *Interconnect Planning Corp. v. Feil*, 774 F2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1985) [cited in the MPEP].

With respect to the dependent claims, these claims are considered patentable at least for the same reasons as their base claims.

For the reasons set forth above, the Examiner is requested to reconsider and withdraw the rejection of claims under 35 U.S.C. §103.

Second Rejection

Claims 2, 3, 8-10 were rejected under 35 U.S.C. 103 as being unpatentable over Yasutake, in view of Gilligan et al., as applied to claims 1, 4, 5-7, 11-14, as above, and further in view of Levin et al., (U.S. Patent 6,154,201). This rejection is traversed.

As explained above, the first two references do not show or suggest the structure claimed. The addition of Levin et al., does not cure inherent deficiencies of a rejection based on the first two references.

For the reasons set forth above, the Examiner is requested to reconsider and withdraw the rejection of the claims under 35 U.S.C. 103.

**CONCLUSION**

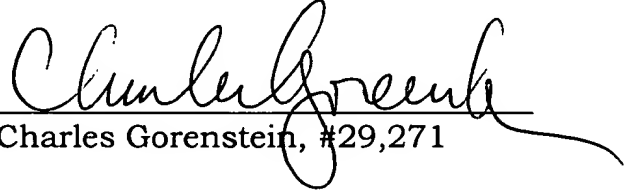
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Elliot A. Goldberg (Reg. No. 33,347) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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